THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2004-0142, Automatic Laundry Services Company, Inc. v. Claremont Arms Condominiums, the court on December 7, 2005, issued the following order:

The plaintiff, Automatic Laundry Services, Inc. (Automatic), appeals an order of the trial court finding that the notification of lease nonrenewal provided by the defendant, Claremont Arms Condominiums (Claremont Arms), was effective and limiting the plaintiff's damage award to $750. We affirm.

The plaintiff first contends that the trial court erred in concluding that the defendant's notice of nonrenewal complied with the terms of the parties' lease. See N.A.P.P. Realty Trust v. CC Enterprises, 147 N.H. 137, 139 (2001) (lease is construed in accordance with standard rules of contract interpretation). The interpretation of a lease is a question of law that we review de novo. See id.; HippoPress v. SMG, 150 N.H. 304, 308 (2003).

The renewal clause of the parties' contract provided that it would be automatically extended "unless cancelled by written notice sent via registered mail by either party at least one hundred and eighty (180) days but not more than two hundred and forty (240) days prior to the expiration of the original term herein specified." The parties agree that the defendant sent notice of its intent to cancel the lease by certified mail rather than registered mail. The trial court found that under the terms of the contract, the notice was received approximately twenty days earlier than the 60-day notice period set forth in the lease. See N.A.P.P. Realty Trust, 147 N.H. at 141 (this court will defer to trial court's finding of fact if supported by evidence). The court further found that no evidence was presented that either of these terms was essential to the cancellation of the lease. We note that this is not a case where the notice was not received by the plaintiff or was received beyond the deadline established in the contract. When the plaintiff received the notice, it did not advise Claremont Arms that it was premature under the contract so that the defect could be cured. "Under New Hampshire law, every contract contains an implied covenant of good faith performance and fair dealing." Renovest Co. v. Hodges Development Corporation, 135 N.H. 72, 81 (1991). Given the record before us, we find no error in the trial court's ruling that the cancellation notice was effective.

The plaintiff also contends that the trial court erred in finding that the defendant had not breached the contract term providing the plaintiff with "the

right of first refusal to meet any competitive bid to continue providing laundry services." The trial court found that DLC Investments owned 96% of the living units of Claremont Arms and that DLC decided to provide its own laundry services; the plaintiff does not contest these findings. The trial court concluded that there was no competitive bid for the plaintiff to match. Based upon the record before us, we find no error in this ruling. Cf. Baker v. McCarthy, 122 N.H. 171 (1982).

In its final argument, the plaintiff contends that the trial court erred in failing to award lost profit damages for April 2003. A review of the plaintiff's requests for findings of fact and rulings of law indicates that it did not request damages for this period; nor did it raise this omission before the trial court in a motion for reconsideration. Accordingly, we conclude that it has not been properly preserved for our review. See LaMontagne Builders v. Bowman Brook Purchase Group, 150 N.H. 270, 274 (2003) (supreme court will not consider issues on appeal not presented in lower court); N.H. Dep't of Corrections v. Butland, 147 N.H. 676, 679 (2002) (issues arising subsequent to trial may be raised before trial court in motion for reconsideration).

Affirmed.

NADEAU, DUGGAN and GALWAY, JJ., concurred.

Eileen Fox,
Clerk